

Supreme Court Summaries

Opinions filed May 19, 2016

Richter v. Prairie Farms Dairy, 2016 IL 119518

Appellate citation: 2015 IL App (4th) 140613

JUSTICE FREEMAN delivered the judgment of the court, with opinion.

Chief Justice Garman and Justices Thomas, Kilbride, Karmeier, Burke, and Theis concurred in the judgment and opinion.

In 1980, plaintiff dairy farmers Michael and Denise Richter began providing defendant cooperative, Prairie Farms Dairy, with whole milk to market and sell. Plaintiffs became members of the cooperative and common stockholders, and they entered into a milk marketing agreement with the defendant. In the spring of 2005, plaintiffs temporarily ceased production, although they hoped to resume within one year. In October of that year, they were notified that the defendant had terminated both the agreement and their membership in the cooperative. The amount originally paid for their shares of common stock was tendered to them, but they rejected it. This 2006 Madison County lawsuit for damages followed. The litigation would later be transferred to Macoupin County. In 2012, the plaintiffs voluntarily dismissed their three-count complaint without prejudice and were given leave to amend in 30 days, but they did not do so within that time. In 2013, a four-count complaint was filed, but the circuit court dismissed it on grounds of *res judicata* and the statute of limitations. Plaintiffs appealed, and the appellate court reversed, holding that *res judicata* did not apply because there had been no final order and that the statute of limitations permitted the action. In this decision, the Illinois Supreme Court affirmed the appellate court.

The defendant had attempted to argue that there was an “automatic final judgment” mechanism, but the supreme court said that this theory overlooked a significant body of case law. The supreme court said that the involuntary dismissal order did not automatically become a final order just because the plaintiffs failed to file an amended complaint within the leave-to-amend period. The trial court entered no separate order dismissing the action, and the supreme court held that the circuit court had retained jurisdiction even after no amendment was filed within the prescribed time.

The cause of action accrued in October of 2005, and plaintiffs filed suit in October of 2006, well within the applicable five-year limitation period. Plaintiffs voluntarily dismissed on September 7, 2012, and the Code of Civil Procedure gave them the right to refile within one year of a voluntary dismissal. As the appellate court correctly noted, the plaintiffs had until September 7, 2013, to refile their action, and they did so on September 6, 2013. Thus, their claims had been saved.

The appellate court's reversal and its remand for further proceedings were affirmed.